

## **LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT**

**P.A.S.#:** SPECIAL PERMIT #1924

**DATE:** July 25, 2001

**PROPOSAL:** The applicant requests a special permit to sell alcoholic beverages for consumption off the premises at the Kabredlos convenience store and service station located 2305 R Street.

### **GENERAL INFORMATION:**

**APPLICANT:** Mark Hunzeker  
1045 Lincoln Mall, Suite 200  
Lincoln, NE 68508

**CONTACT:** Same

**PROPERTY OWNER:** Chien Van Nguyen  
3000 Mikaeela Lane  
Lincoln, NE 68521

**LOCATION:** SE corner of North 23rd Street & R Street

**REQUESTED ACTION:** Approval of a special permit to permit the sale of liquor for consumption off the premises.

**LEGAL DESCRIPTION:** The north 100 feet of lots 5 & 6, Block 4 Kinney's O Street Addition, located in the SE1/4 of Section 24 T10N R6E.

**EXISTING ZONING:** B-3, Commercial.

**PURPOSE:** To permit the sale of alcoholic beverages for consumption off the premises.

**SIZE:** 10,000 square feet, more or less.

**EXISTING LAND USE:** Commercial. This is an existing convenience store and service station located on the site of this application.

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Off-premises liquor sales  
North 23<sup>rd</sup> & R Street Kabredlos

**SURROUNDING LAND USE AND ZONING:** The zoning on the site is B-3, Commercial. There are residences to the east and north located in the R-6, Residential district. B-3, Commercial with businesses are located to the west and south.

**COMPREHENSIVE PLAN CONFORMANCE:** The Land Use Plan shows this property as Commercial.

**ANALYSIS:**

**1. SPECIAL PERMIT REQUIREMENTS:** 27.63.685 Alcoholic beverages may be sold for consumption off the premises in the B-1, **B-3**, H-1, H-2, H-3, H-4, and I-1 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions, which are waiveable by the City Council:

**(a) Parking shall be in accordance with Section 27.67.020 of the Lincoln Municipal Code.**

The parking provided exceeds the requirements of 27.67.020, which requires one parking space per 300 sf. of building area, or 5 spaces for the proposed licensed premises. There are 6 spaces shown, plus the Building and Safety Department allows one space per pump island to be credited towards the requirement.

**(b) The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under Section 27.63.680 of this code.**

No on-premise consumption is proposed with this Special Permit.

**(c) The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, a residential district or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved by the Planning Director.**

The premises are 75 feet from the boundary of the R-6 district to the east. One way to mitigate the presence of the building is to construct a 6 foot wooden fence to act as a buffer, an approach that has been approved in other special permits for liquor sales. Additionally, the applicant proposes 12 spruce trees to be located outside the area of the special permit but between the special permit area and the residence to the east

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in order to mitigate the impacts of the reduced residential setback. The City Council will have to modify this requirement if it approves the permit.

**(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.**

This is an existing facility, and lighting would have been verified when building permits were issued.

**(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.**

No drive-through window is proposed.

**(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.**

No such devices are proposed with this special permit.

**(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.**

There is one door on the business, facing east toward the residential district. The applicant requests a waiver to this requirement. City Council will have to waive this requirement if the special permit is approved.

**(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible as determined by the City Council, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.**

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Access is via North 23<sup>rd</sup> Street and R Street, which are not strictly residential streets.

**(i) All other regulatory requirements for liquor sale shall apply, including licensing by the state.**

**(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:**

**(1) Revocation or cancellation of the liquor license for the specially permitted premises; or**

**(2) Repeated violations related to the operation of the permittee's business.**

Mitigation of the reduced residential setback must be continuously and regularly maintained as long as there is a special permit for liquor sales at this location.

Planning Commission review and City Council approval is required for this use.

The Public Works & Utilities Department does not object to this request.

The Parks and Recreation Department does not object to this request.

The Police Department recommends denial to this request based on the fact that the building is closer than 100 feet to a residential district.

**STAFF RECOMMENDATION:**

Denial

If, following public hearing, it is determined that this application should be approved, the following conditions are suggested:

**CONDITIONS:**

1. This approval permits the sale of alcohol for consumption off the premises at the establishment known as Karbedlos, located at 2305 R Street.

2. Specifically waived by the City Council is:

2.1 27.63.685 g. Limiting distance to access doors.

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3. The owner agrees to continuously and regularly maintain the landscape screen on Lot 4, Block 4 Kinney's O Street Addition, provided however, should the owner transfer title of Lots 5 and 6, Block 4 Kinney's O Street Addition the owner shall provide an easement to the buyer to allow the continuous and regular maintenance of the landscape screen on Lot 4, Block 4 Kinney's O Street Addition provided however if the owner sells Lot 4, Block 4 Kinney's O Street Addition the owner shall reserve an easement for the continuous and regular maintenance of the landscape screen by the owner of Lots 5 and 6, Block 4 Kinney's O Street Addition.
4. The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
5. This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
5. The City Clerk shall file a copy of the resolution approving the permit and the letter of acceptance with the Register of Deeds. The Permittee shall pay the recording fee in advance.

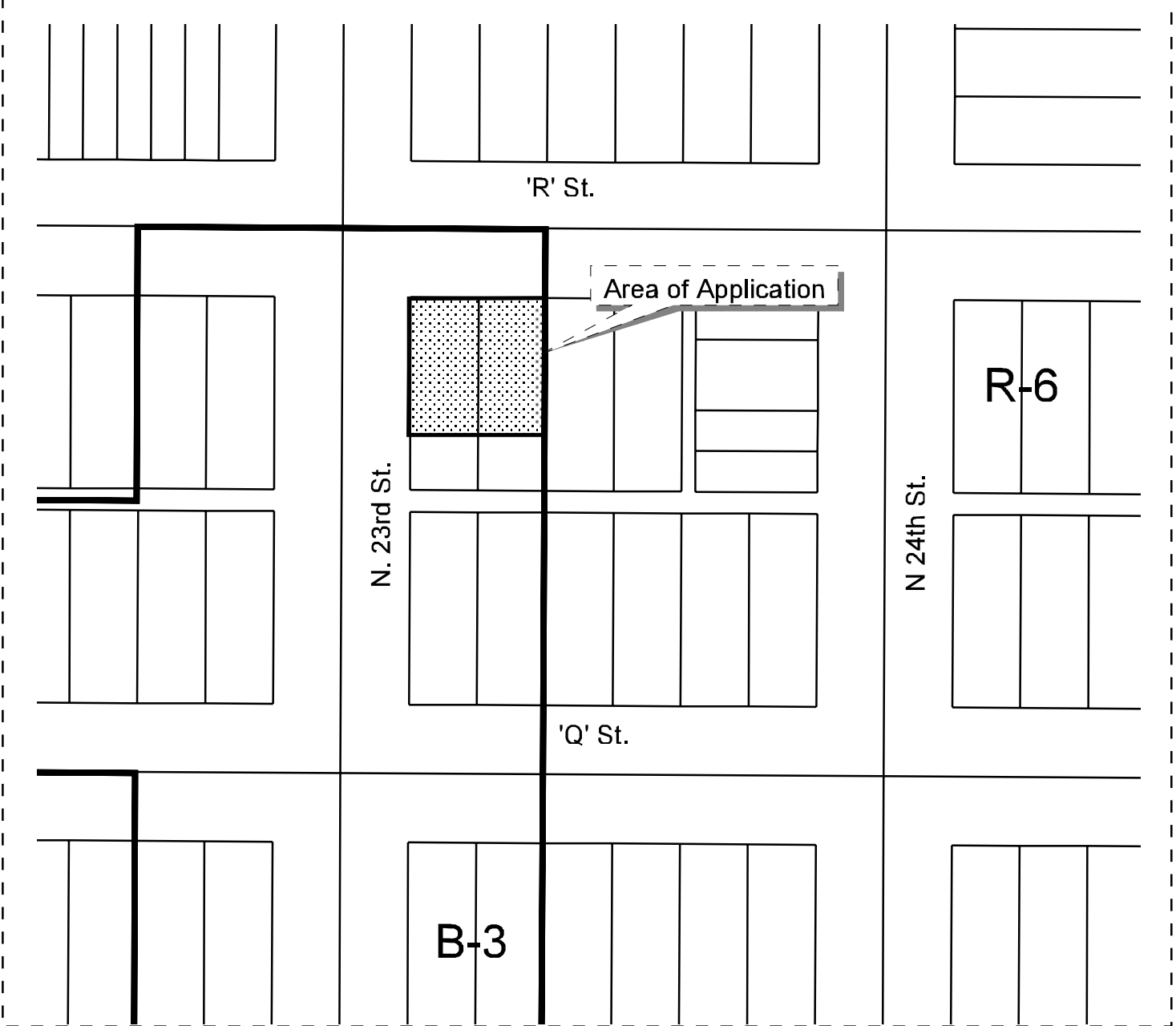
Prepared by:

Becky Horner  
Planner



**Special Permit #1924**  
**N. 23rd & 'R' St.**



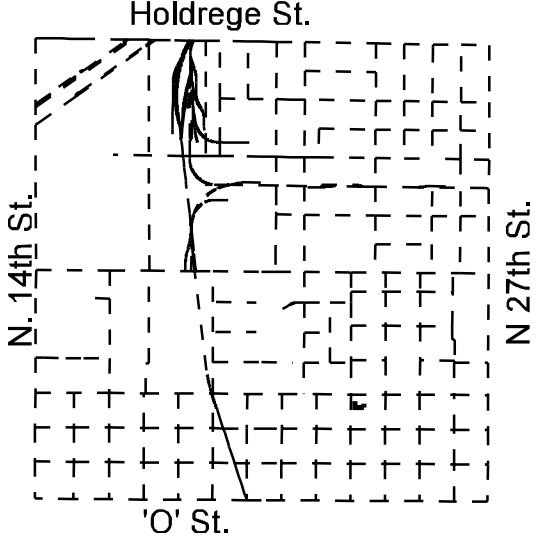
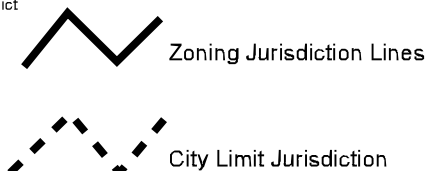


# **Special Permit #1924** **N. 23rd & 'R' St.**

## **Zoning:**

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile  
 Sec. 24 T10N R6E

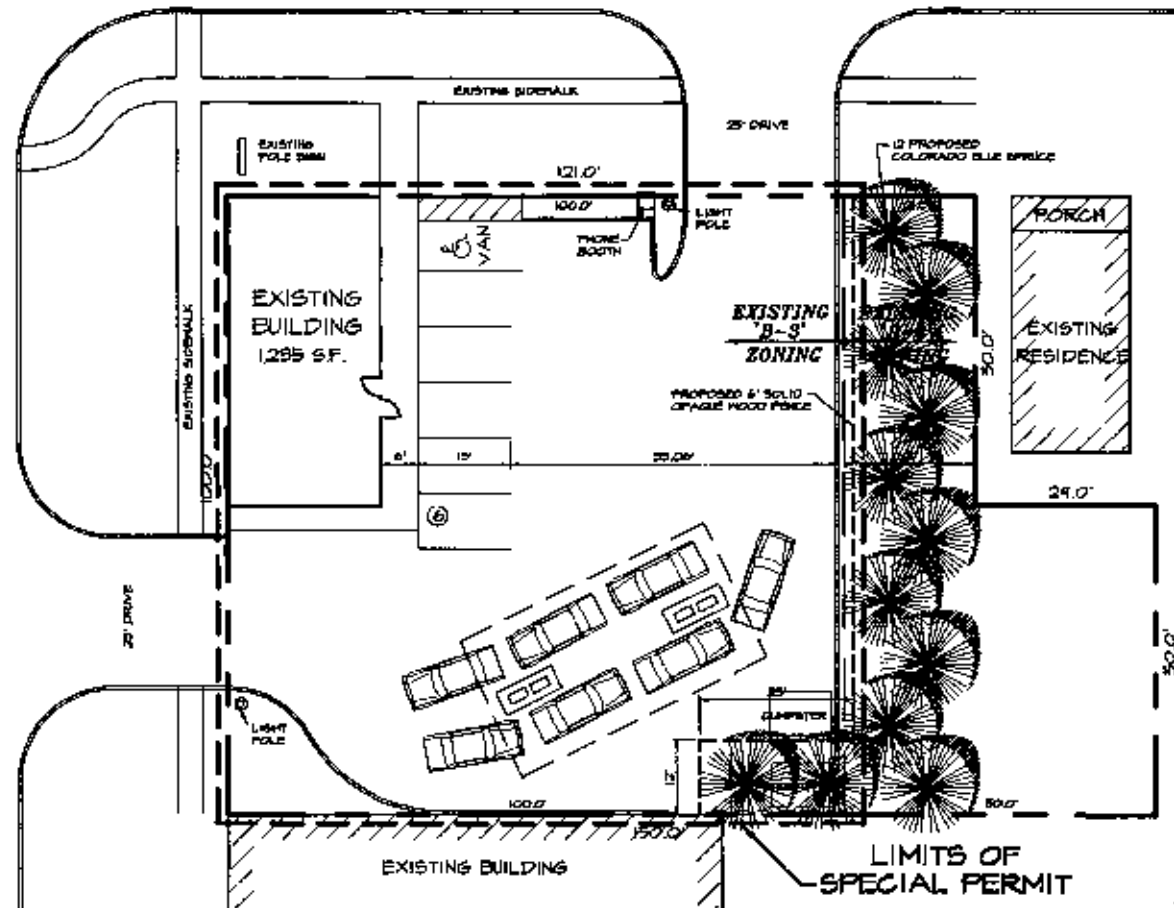


N. 23RD STREET

R STREET

**LEGAL DESCRIPTION:**  
NORTH 100.0 FEET OF LOTS 4, 5 & 6, BLOCK 4,  
KINNEY'S 19 STREET ADDITION, EXCEPT THE EAST  
20.0 FEET OF THE NORTH 50.0 FEET OF LOT 4,  
BLOCK 4, ALL LOCATED IN THE SE 1/4 OF  
SECTION 24, T. 10N, R. 9E, OF THE 6TH PM,  
LINCOLN, LANCASTER COUNTY, NEBRASKA.

**LEGAL DESCRIPTION  
FOR SPECIAL PERMIT:**  
NORTH 100.0 FEET OF LOTS 5 & 6, BLOCK 4,  
KINNEY'S 19 STREET ADDITION, LOCATED IN THE  
SE 1/4 OF SECTION 24, T. 10N, R. 9E, OF THE 6TH  
PM, LINCOLN, LANCASTER COUNTY, NEBRASKA.



**SITE PLAN**  
SCALE: 1" = 20'-0"



**BRIAN D. CARSTENS  
& ASSOCIATES**

LAND DEVELOPMENT  
ENVIRONMENTAL  
& COMMERCIAL  
ENGINEERS

200 OLD COUNTRY ROAD  
SUITE 100  
LINCOLN, NE 68504

PHONE 402-466-0000  
FAX 402-466-0000  
WWW.BDCARSTENS.COM

**KARREN, JAY**

200  
N. 23RD STREET

LINCOLN, NE

**SITE  
PLAN**



SCALE 1" = 20'

**DATE**

JUL 12 2007

UNLESS OTHERWISE SPECIFIED,  
ALL DIMENSIONS ARE IN FEET.



**PIERSON, FITCHETT, HUNZEKER, BLAKE & KATT**  
Law Firm

Gary L. Aksamit  
Thomas J. Fitchett  
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Lincoln, Nebraska 68509

Fax (402) 476-7465  
Telephone (402) 476-7621

July 12, 2001

Kathleen Sellman  
Director of Planning  
City of Lincoln  
555 S. 10<sup>th</sup> St.  
Lincoln, NE 68508

Dear Kathleen:

This is to advise you that the record owner of the property described as:

the North 100 feet of lot 4, except the East 29 feet of the North 50 feet thereof, and the North 100 feet of lots 5 and 6, Block 4 Kenney's O Street Addition, Lincoln, Lancaster County, Nebraska

is Chien Van Nguyen.

On behalf of the applicant, we request a waiver of the requirements of sections 27.63.685 (c) and (g). Proposed mitigation is construction of a six foot wooden fence, with a double row of Colorado Blue Spruce to screen along the residential zoning district line.

Feel free to call if you have any questions.

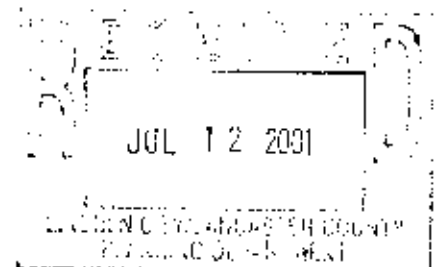
Sincerely,



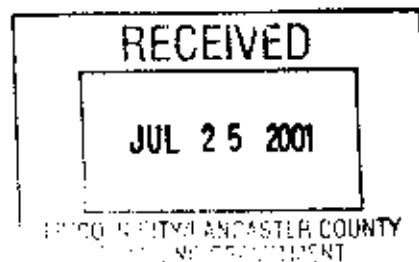
Mark A. Hunzeker  
For the Firm

MAH:arg

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# Memorandum



**To:** Becky Horner, Planning Department

**From:** Charles W. Baker, Public Works and Utilities *CB*

**Subject:** Special Permit # 1924, Off Sale- Alcohol 2305 'O' Street

**Date:** July 24, 2001

**cc:** Roger Figard  
Nicole Fleck-Tooze

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the site plan for the proposed alcohol sales at Kabredio's located at 2305 "O" Street. The drive access and pump islands all meet design standards. However, the building location for entry is in direct violation for alcohol sales to a residential district. The applicant is proposing a Colorado Blue Spruce Screening which may provide adequate screening when mature. Public Works will support the Planning Director's recommendation of the requested waivers of Sec. 67.63 c & g.

# Memorandum

JUL 18 2001

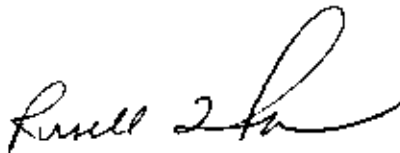
**To:** Jason Reynolds  
**From:** Investigator Russell Fosler  
**Date:** 7/18/01  
**Re:** Alcohol Sales Special Permit, Kabredlo's 2305 'R' Street

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Jason,

Enclosed are the Lincoln Police Department calls for service at the proposed location.

The Lincoln Police Department is recommending denial base on the criteria that the proposed location is within 100 feet of a residential district.



Investigator Russell L. Fosler, For  
Michael S. Woolman  
Planning Sergeant  
Lincoln Police Department

# Memo



**To: Becky Homer**  
**From: Mark Canney, Parks & Recreation**  
**Date: July 19, 2001**  
**Re: Kabredlo's SP 1924**

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Staff members of the Lincoln Parks and Recreation Department have conducted a plan review of the above-referenced application/proposal and have no comments.

If you have any additional questions, comments or concerns, please feel free to contact me at 441-8248.

JUL 20 2001

COUNTY